THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.23582 OF 2004

DISPOSED OF ON 12-12-2005.

BETWEEN:

VINNAKOTA HYMA AND OTHERS .. PETITONERS

VS.

THE DISTRICT REGISTRAR, NELLORE

AND OTHERS .. RESPONDENTS

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ORDER:

1. Challenge is made to the action of the Mandal Revenue Officer, Muthukur Mandal, Nellore District-3rd respondent in issuing proceedings in Rc.No.380/03 dated 26-5-2004 whereby and whereunder Sub-Registrar, Muthukur village and Mandal, Nellore District-2nd respondent has been instructed not to register documents relating to plots in approved lay out No.436/87 comprising Sy.Nos.251/3, 252/2 and 253/2 of Muthukur village and Mandal, Nellore District in the writ petition.

2. Pulgam Masthan Reddy-5th petitioner has sworn to the writ affidavit. The case of the petitioners as set out in the writ affidavit, in brief, is :

1st petitioner is the absolute owner of Ac.2-00, 2nd petitioner is the absolute owner of Ac-1-00, 3rd petitioner is the absolute owner of Ac.1-00 and 4th petitioner is the absolute owner of Ac.1-00 comprising S.Nos.251/3, 252/2 and 253/2 of Muthukur village and Mandal, Nellore District. They purchased the same for a valuable consideration under registered sale deeds dated 22.12.1985 from Vada Venugopal Reddy. Ever since the purchase they have been in possession and enjoyment of their respective extents in the above referred survey numbers. They are also owning Ac.12-08 cents comprising S.Nos.251/3, 252/2 and 253/2 of Muthukur village and Mandal, Nellore District adjacent to the lands purchased by them under the above referred registered sale deeds. They obtained approved lay out of the land under L.P.No.436/87 by letter-dated 31.12.1987 from the Director of Town and Country Planning, Hyderabad. 5th petitioner purchased plot Nos.1 to 11 from the petitioners 1 to 4. Petitioners 1 to 4 also sold certain plots to third parties and executed either agreements of sale or irrevocable GPAs. The petitioners developed the lay out by laying pucca roads and also provided all other amenities including underground cement drainage etc. They have also arranged for fixing of electric poles and wiring. The 3rd respondent issued certificate in proceedings L.Dis.No.126/C/03, dated 23.6.2003 certifying that an extent of Ac.12.08 cents in s.Nos.251/2, 252/2 and 253/3

is patta land and they have no objection to register the said extent. The petitioners also expressed their readiness to alienate an extent of Ac.3-66 guntas for roads and an extent of Ac.0-604 cents in favour of Gram Panchayat by executing a regular registered sale deed. The petitioners have entered into agreements of sale with third parties with regard to the sale of plots. While so, they have been informed by the 2nd respondent of the instructions being issued by 3rd respondent not to register the sale deeds. Hence, this writ petition.

3. 4th respondent filed counter affidavit. One T.V.Narasimha Rao, Panchayat Secretary, Muthukur Gram Panchayat has sworn to the counter affidavit. It is stated in the counter affidavit that the lands in S.Nos.251/3, 252/2 and 253/2 of Muthukur village are tank bed lands and therefore construction activity cannot be permitted. Para 2 of the counter reads as follows:

" With regard to para 3 it is submitted that the petitioners have submitted proposals through the Muthukur Gram Panchayat for approval of their layout in Survey Nos.251/3, 252/2 and 253/2 of Muthukur village from the Director of Town and Country Planning, A.P., Hyderabad who has approved it with certain modifications and subject to certain conditions. The layout as modified and approved made provision for 125 plots with an open space of 5% kept for public purpose to be handed over to the Muthukur Gram Panchayat through registered gift deed. It was also stipulated that building permission shall not be granted until and unless the hatched portion is acquired by the applicant. It was further stipulated that the internal roads shall be formed within a period of at least two months failing which the Executive officer shall take necessary action to cancel the layout duly publishing in the newspapers. After the approval of the layout was received from the Director of Town and Country Planning, the Executive Officer, Muthukur Gram Panchayat in his proceedings Rc.No.112/86 dated 12.4.1989 requested the petitioners to fulfill the conditions laid down and to get the 5% open space to an extent of 0.604 acres for public purpose registered in favour of the Gram Panchayat and handed over to it by 11/7/1989. The petitioners were also requested to form the internal roads. But the petitioners have not handed over the open space of 5% for public purpose through registered deed so far in compliance with the condition stipulated by the Director of Town and Country Planning, A.P., Hyderabad. Similarly the internal roads were not also formed by the petitioners within the period specified."

4. Heard learned counsel appearing for the petitioners, learned Government Pleader for Revenue appearing for respondents 1 to 3 and learned Standing Counsel appearing for 4th respondent.

5. Learned counsel appearing for the petitioners submits that 4th respondent passed resolutions to lay electric poles and it has also given a certificate to some of the persons expressing 'NO Objection' for providing electricity to their houses. He refers the copies of the resolutions passed by the Gram Panchayat. It is also submitted by him that near and around the lay out plots, there exist many buildings including Mandal complex, Mothukur, Girijan Housing colony and therefore the plea put-forth by the Mandal Revenue Officer that the survey numbers in question are located in foreshore areas of Muthukur village tank cannot be accepted.

6. Learned Government Pleader for Revenue appearing for respondents 1 to 3 submitted that the action of Mandal Revenue Officer in addressing a letter to the Sub-Registrar not to receive the documents for registration in respect of the survey numbers in question, in the circumstances of the case is justified and that the Mandal Revenue Officer cannot be found fault in addressing such a letter. Learned Standing Counsel appearing for the 4th respondent submits that necessary conditions stipulated in the lay out plan have not been fulfilled and thus the letter addressed to the Sub-Registrar by the Mandal Revenue Officer not to entertain the documents for registration in respect of lands in question is justified.

7. A fact remains that Director, Town and Country Planning, Hyderabad has approved the lay out plan and many transactions took place in respect of the plots falling part of the lay out. Indeed the Mandal Revenue Officer has issued a certificate on 23.6.2003 to the effect that the lands in question are patta lands. The certificate issued by the Mandal Revenue Officer reads as follows:

" This is to certify that the following extents in survey numbers of Muthukur village are patta lands and no objection to register the extents shown under patta lands.

S.No. Total Extent Govt.

Extent under land Classification

In Acs. Patta (CJFS)

251/2 20.16 0.08 20.08 Dry

252/2 15.00 0.85 14.15 Dry

253/3 15.60 11.15 4.45 Dry

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50.76 12.08 38.68

4th respondent also passed resolutions to lay electric poles in the lay out plan. One such resolution finds place in page No.14 of the material papers filed along with this writ petition. As on this day lay out plan has not been cancelled and there exist many buildings including Mandal complex, Mothukur, Girijan Housing colony nearby the lands in question for which lay out plan has been approved by Director of Town and Country Planning, Hyderabad.

8. The Government is vested with the power under section 22-A of the Registration Act to notify to the registering authority the details of the properties in respect of which, the registration shall not be effected. Except in a case where a property is notified under section 22A of the Registration Act, the registering authority has no power to refuse to register a document presented to him as regards the property within his jurisdiction, if the document is otherwise in order and if there is no dispute as to the identity of the executant. In MANDADI NIRMALA V. DISTRICT COLLECTOR, HYDERABAD a Division Bench of this court while dealing with a case where the registering authority refused to register the document on the ground that the proceedings relating to the subject matter of the document were pending in the Land Grabbing Court, speaking for the Bench, Sri Justice P.Venkatrama Reddy (as he then was) observed as under:

" We therefore, direct the Sub-Registrar to consider the question of registration of the documents in the light of the Registration Act after referring to the objection raised by the Mandal Revenue Officer and to pass appropriate orders according to law. In case it is decided to register

and release the documents, appropriate endorsements shall be made on the documents referring to the factum of objection by the Revenue Department and the overruling of objection. It is made clear that the alienations in question will be subject to the result of Land Grabbing Case said to be pending in the Special Court."

Therefore, the dispute as to the title or pendency of proceedings does not confer any right on the registering authority to withhold the document. The satisfaction for the purpose of registration has to be wholly in terms of the provisions of the relevant Acts and not beyond that. Since no notification has been issued by the Government under section 22-A of the Registration Act in respect of Survey Nos.251/3, 252/3 and 253/2, the action of the respondents 1 and 2 in refusing to register the documents presented by the petitioner is not legal and proper and the same is unsustainable.

9. Accordingly this writ petition is allowed directing the respondents 1 and 2 to receive, consider and process the documents presented by the petitioners and release the same, if they are found to be otherwise in order and if proper stamp duty and registration fee is paid.

Dt: 12-12-2005. (B.Seshasayana Reddy,J)

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